

# South Carolina Department of Natural Resources

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August 8, 2016

Mr. Stephen A. Brumagin  
U.S. Army Corps of Engineers  
Charleston District, Columbia Field Office  
1835 Assembly Street, Suite 865 B-1  
Columbia, SC 29201

REFERENCE: P/N SAC-2008-01333, S.C. Department of Transportation, Interstate-73  
Dillon, Horry, Marion, Marlboro counties

Dear Mr. Brumagin,

Personnel with the South Carolina Department of Natural Resources (DNR) have reviewed the above referenced project and offer the following comments.

## **Project Description**

The South Carolina Department of Transportation (Applicant) proposes to construct a new four-lane interstate roadway that will be approximately 75.3 miles on new alignment. This proposed project also will include the construction of interchanges, over/underpasses, and improvements to existing roadways at the interchanges and over/underpasses. The proposed project would utilize a standard limited-access interstate design with frontage roads and entrance/exit ramps at interchanges, storm water facilities, grassed medians, shoulders, guide rails and barrier fences. In detail, the Interstate-73 (I-73) project is proposed to include permanent placement of fill materials/structures in a total of 4,643 linear feet of stream and a total of 324.1 acres of other waters, including wetlands. The impacts to wetlands include: 254.28 acres as a result of permanent fill, 48.67 acres as a result of temporary clearing, 16.75 acres as a result of permanent clearing and 4.4 acres as a result of excavation. These project impacts are proposed to occur within 17 separate streams, 139 separate wetlands and 5 separate ponds/impoundments.

## **Purpose and Need**

DNR was an active participant in the Agency Coordination Team (ACT) effort that facilitated the development of Final Environmental Impact Statements for both the northern and southern corridors of I-73 as part of the National Environmental Policy Act (NEPA) process. DNR submits the NEPA process culminating in a Records of Decision satisfied the determination of the proposed roadway purpose and need.

### **Avoidance and Minimization of Impacts to Waters of the United States**

DNR recognizes that for various and legitimate reasons, the ability of the Applicant to avoid and minimize impacts, further than the extent described in the application and supporting documents, is not practicable.

### **Mitigation for Unavoidable Impacts**

The public notice includes a permittee-responsible mitigation plan referred to as the I-73 Compensatory Mitigation Plan. This plan was designed to achieve landscape-scale conservation objectives based on the priorities of both local and regional environmental advocacy groups and the Federal and State regulatory and resource agencies.

DNR is familiar with the Gunter's Island Tract. This site has been identified as an important potential preservation tract for several decades through various conservation plans developed individually and collectively by agencies and conservation organizations partnering on landscape-scale conservation in the coastal plain. This area is of regional, national and international conservation significance, and has been identified as the highest priority tract in the Little Pee Dee - Lumber Focus Area Conservation Plan. The Little Pee Dee Focus Area Basin (Basin) contains a variety of strategically important coastal plain habitats, including pine uplands, Carolina bays, oxbow lakes, fluvial sand ridges and extensive wetland and black water river/creek systems. The Basin is home to important migrating, wintering and breeding waterfowl habitat, shore and wading bird habitat, as well as habitat critical to neotropical migrant songbirds and a diverse group of bottomland forest bird species. The Basin presents a unique, but temporally short opportunity to achieve meaningful landscape-scale conservation. The Basin contains the Little Pee Dee Heritage Preserve which is immediately upstream of the Woodbury Wildlife Management Area. Both the Waccamaw National Wildlife Refuge and the highly successful Winyah Bay Focus Area are downstream of the Basin.

The abundant and unique natural resources of the Basin are under threat from a variety of contemporary land use practices and alterations including development of public infrastructure, sand mining and other conversions of the landscape to non-traditional and degrading land use practices. Continued development along the US 378 and US 501 corridors typifies the types of land use changes that threaten fish and wildlife populations and water quality within the Basin. Land use changes and practices such as irrigation and sand mining impact aquatic habitats by increasing silt and sediment loads, introducing excessive nutrients and chemical contaminants and decreasing water availability and wetted habitat.

On a number of occasions, DNR staff has inspected the area proposed as mitigation. DNR concludes through previously gathered information, scientific literature and conservation management experience and, as confirmed through site inspections, the area proposed for preservation offers, at a minimum, a unique opportunity to:

1. Protect a total of 6,134 acres along 11 miles of river frontage on the Little Pee Dee River in Horry County. This includes the protection of 4,583 acres of wetlands and 89,686 linear

- feet of stream. Approximately 1,114 acres of planted pine in mapped hydric soils and approximately 150 linear feet of stream are proposed for restoration and enhancement,
2. Provide significant opportunity to perform long-term ecological renewal of regionally sensitive habitats (longleaf pine forest) important to a variety of threatened and endangered species,
  3. Provide significant opportunity to protect approximately 400 acres of virgin forest that is believed to be the only virgin cypress bottomland remaining in South Carolina,
  4. Provide necessary buffering of wetlands proposed to be protected, restored and enhanced as well as buffering of sensitive habitats important to species susceptible to disturbance,
  5. Provide opportunity to significantly improve water quality within the watershed through stream and wetland restoration, enhancement and buffering,
  6. Provide opportunity for long-term stewardship through protective instruments including a dedication agreement and trust easement through the South Carolina Heritage Trust Act,
  7. Provide opportunity to extend preservation and conservation management benefits to up to 5,000 acres of additional conservation between Little Pee Dee HP and Gunter's Island,
  8. Provide opportunity for land and conservation management efficiency and cost savings to the conservation partners, the DNR and the Waccamaw National Wildlife Refuge,
  9. Provide opportunities for long-term, holistic, science-based management of forest ecotypes critical to the habitat requirements of neotropical migrating songbirds and a broad array of wetland dependent birds and other fish and wildlife,
  10. Provide private conservation partners leverage opportunity to protect additional adjacent tracts, including significant wetlands, through fee title acquisition and/or conservation easements further linking important riparian corridors,
  11. Provide for additional, traditional public use opportunities,
  12. Provide for protection of cultural and historical resources that may occur on the properties proposed for preservation as well as properties that may be protected at a later date and as a direct result of the proposed actions, and
  13. Provide public conservation education and outreach on the importance of protecting wetlands, streams and water quality both now and for future generations.

The Applicant's plan is uniquely positioned to protect this property while the ability to do so exists. There is concern over the window of opportunity to complete this and other potentially related actions that remain vital to the local conservation organizations' plans to affect further landscape-scale conservation. If such conservation actions are not completed, the outcome will result in the loss of a unique opportunity to protect old growth forested wetlands, water quality, fish and wildlife and their habitats and quality-of-life for citizens.

#### **Application of the Mitigation Rule**

The Mitigation Rule (Rule) provides the Army Corps of Engineers District Engineer (DE) the discretion to consider mitigation opportunities through preservation as long as the following criteria are met:

1. Resources to be preserved provide important physical, chemical and biological functions and contribute significantly to the ecological sustainability of the watershed,

2. The DE determines preservation is appropriate and practicable,
3. Resources to be preserved are under threat of destruction or adverse modification, and
4. The proposed preservation sites will be permanently protected by a third party conservation easement or title transfer to a state resource agency or land trust.<sup>1</sup>

Further, the Rule provides that preservation alone may compensate for permitted impacts “where preservation has been identified as a high priority using the watershed approach...”<sup>2</sup> The Rule also acknowledges “public interest” factors in mitigation planning.<sup>3</sup>

The Applicant intends to transfer the Gunter’s Island Tract to DNR for incorporation into the Heritage Trust Program and management as a Heritage Preserve in accordance with a Dedication Agreement. The Heritage Trust Program was established in 1976 under § 51-17-10 of the South Carolina Code of Laws to protect lands with unique and outstanding natural and cultural features.

The Heritage Trust Program protects, in perpetuity, natural areas that contain unique landforms to include threatened, endangered, or unique plant or animal habitats, outstanding historical or archaeological features, or other unusual or outstanding scientific, educational, aesthetic or recreational characteristics.

DNR agrees with the Applicant's proposed mitigation plan and its objectives. The plan meets the Rule’s criteria of preservation mitigation as it:

1. Encompasses outstanding resources based on rigorous scientific and technical analysis,
2. Provides opportunity to protect, restore and enhance important physical, chemical and biological functions and contributes significantly to the ecological sustainability of the watershed,
3. Preserves resources under threat of destruction or adverse modification, and
4. Permanently protects the proposed preservation sites by a third party conservation easement or title transfer to a state or federal resource agency or land trust.

## Summary

DNR believes the Applicant has proposed a mitigation plan that aligns with a high standard for projects that result in a significant amount of unavoidable impacts to Waters of the United States. We recognize the preliminary mitigation plan does not describe in detail wetland or stream restoration that will be forthcoming. However, we have high confidence these details can be described into a plan that will be acceptable, achievable and incorporated by condition into any issued permits or certifications.

DNR believes the proposed mitigation plan will result in profound natural resource benefits through protection of regionally significant wetlands and critical fish and wildlife habitats, while

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<sup>1</sup> 33 C.F.R. § 332.3(f).

<sup>2</sup> 33 C.F.R. § 332.3(h)(2).

<sup>3</sup> 33 C.F.R. §332.1(d).

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P/N SAC-2008-01333, S.C. Department of Transportation, Interstate-73  
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adding to the collective efforts of DNR and its many public and private conservation partners. The ongoing mission of landscape-scale conservation includes the following three basic features:

1. Identification of a regional system of interconnected lands, wetlands, streams and riparian corridors,
2. Actions organized to achieve and link multiple specific conservation objectives, and
3. Stakeholders who cooperate in a concrete fashion to achieve those objectives.

The proposed project and its mitigation plan presents a unique opportunity to embrace and further this concept while providing indispensable ecological benefits to include wetland and stream protection restoration and enhancement, buffering of wetlands and riparian corridors, water quality enhancement, protection of surface and source water, flood mitigation, storm water management and erosion control, connectivity of sensitive habitats, benefits to unique species, carbon sequestration, preservation of traditional uses, and broad recreational and other public uses.

It has been conclusively demonstrated that landscape-scale conservation encourages ecological resilience and economic sustainability through the use of science-based priorities. Additionally it leverages resources and multi-functionality, is embraced by diverse stakeholders, facilitates reduced land management costs, reduces wildfire-risk potential, achieves watershed/river basin health objectives, utilizes forest products to benefit local economies, and provides public use and enjoyment of natural resources and tourism. Now, it can be used to facilitate the permitting of appropriately sited projects allowing infrastructure and development to proceed. Clearly, implementation of this mitigation plan can be one of the lasting positive legacies affecting the Little Pee Dee River Basin.

Please do not hesitate to contact me at your earliest convenience should you require additional information on this matter.

Sincerely,



Bob Perry  
Director, Office of Environmental Programs

c: Kelly Laycock – USEPA  
Pace Wilber – NMFS  
Tom McCoy – USFWS  
Heather Preston – DHEC-EQC  
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